

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE	:	
ENERGY, LLC, a Delaware limited liability	:	
company,	:	
Plaintiff,	:	CIVIL ACTION
v.	:	NO. 04-CV-325 (ERIE)
VICTORY ENERGY	:	Judge Sean J. McLaughlin
OPERATIONS, LLC, a Delaware limited	:	
liability company,	:	
Defendant.	:	

**PLAINTIFF'S MOTION TO FILE EXHIBITS
UNDER SEAL IN CONNECTION WITH
SUMMARY JUDGMENT BRIEFING**

Plaintiff Indeck Keystone Energy, LLC (“IKE”), by and through its undersigned counsel, hereby moves to file certain exhibits containing confidential, proprietary information under seal that are relevant to Plaintiff’s Motion for Partial Summary Judgment on Counts I, IV, V, and VI and to its opposition to Defendant’s Motion for Partial Summary Judgment (“the Motions”). As grounds for this motion, Plaintiff avers the following:

1. As set forth in greater detail in IKE's Complaint, this action arises out of VEO's alleged misuse and misappropriation, *inter alia*, of certain software and proprietary and technical data (collectively, the "Keystone® Technology") that was licensed to VEO pursuant to a written License Agreement dated as of January 7, 2003.

2. The parties have filed the Motions, which address (among other issues) the interpretation of the License Agreement entered by VEO with Erie Power Technologies, Inc. (“EPTI”), which is IKE’s predecessor-in-interest.

3. In connection with negotiating the License Agreement, EPTI and VEO exchanged “Annex I,” which contains certain design and operating information that IKE and its predecessors consider to be confidential and proprietary and/or to represent trade secrets. In particular, the information includes (but is not limited to) tube spacing in the boilers, the transverse spacing, the number of rows of convection tubes, and the effective convection surface, which represent aspects of the geometry of the boiler that affect the steam production and thermal performance. That information was developed by IKE’s predecessors over an extended period of time and represent design details that contribute to the quality and performance of the boilers.

4. During a conference on March 28, 2006 concerning IKE’s Motion to Seal Annex I, the Court advised IKE that it should file a motion to seal documents that it wishes to protect from public disclosure.

5. IKE wishes to file under seal Exhibits 9, 11, 13, 20, 21, and 23 to its Motion because they contain drafts or final versions of Annex I.

6. Annex I is relevant to the pending Motions because it is a part of the License Agreement and necessary to the determination of the scope of the Agreement.

WHEREFORE, Plaintiff Indeck Keystone Energy LLC asks the Court to grant this Motion and permit Plaintiff to file Exhibits 9, 11, 13, 20, 21, and 23 under seal.

Respectfully submitted,

/s/ John K. Gisleson
John K. Gisleson (Pa. ID. No. 62511)
Robert J. Williams (Pa. ID. No. 76139)
SCHNADER HARRISON SEGAL & LEWIS LLP
Fifth Avenue Place
120 Fifth Avenue, Suite 2700
Pittsburgh, PA 15222-3001
Telephone: 412-577-5200
Facsimile: 412-765-3858

Gerald F. DeNotto
600 North Buffalo Grove Road, Suite 300
Buffalo Grove, IL 60089
Telephone: 847-520-3212
Facsimile: 847-520-3235

Attorneys for Plaintiff and Counterclaim Defendant,
Indeck Keystone Energy, LLC

Dated: May 3, 2006.

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OPERATIONS, LLC, a Delaware limited :
liability company, :
Defendant. : Judge Sean J. McLaughlin

ORDER

AND NOW, this ____ day of May 2006, upon consideration of Plaintiff Indeck Keystone Energy, LLC's Motion to File Exhibits Under Seal in Connection with Summary Judgment Briefing, and any response thereto, it is hereby ORDERED that that Motion is GRANTED. Plaintiff may file Exhibits 9, 11, 13, 20, 21, and 23 under seal.

J.

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing **Plaintiff's Motion to File Exhibits Under Seal in Connection with Summary Judgment Motions** was served on the following parties by ECF, this 3rd day of May, 2006:

Christopher T. Sheean, Esquire
Wildman, Harrold, Allen & Dixon LLP
225 West Wacker Drive, Suite 3000
Chicago, Illinois 60606-1229

G. Jay Habas, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1001 State Street, Renaissance Center, Suite 1400
Erie PA 16501
Facsimile: 814-461-7818

/s/
John K. Gisleson